

HOUSE BILL No. 1487

DIGEST OF HB1487 (Updated January 26, 1999 12:47 pm - DI 96)

Citations Affected: IC 22-1; IC 22-9.

Synopsis: Wage discrimination. Provides that an employer may not discriminate against an employee on the basis of sex, race, or national origin by paying wages at a rate less than to other employees of another sex, race, or national origin. Requires the department of labor to adopt rules to implement the chapter, including specifying the criteria for determining whether a job is dominated by employees of one sex, a particular race, or a particular national origin. Requires an employer to keep records of wages paid to employees and to document wages paid to employees and support the method, system, calculations, and bases used to establish, adjust, and determine the wage rates paid to its employees. Requires an employer to provide to the employee upon commencement of employment and at least annually thereafter, a (Continued next page)

Effective: Upon passage.

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January 19, 1999, read first time and referred to Committee on Labor and Employment. January 27, 1999, reported — Do Pass.



Digest Continued

statement of the job title, wage rate, and how the wage is calculated. Allows an individual claiming discrimination to file a complaint with the civil rights commission. Allows an individual to file a civil action for violation of the requirement to be furnished an annual statement of wages. Allows the department of labor to file a civil action against an employer for a violation of the record keeping requirements.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 1998 General Assembly.

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HOUSE BILL No. 1487

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1	SECTION 1. IC 22-1-1-8 IS AMENDED TO READ AS FOLLOWS
2	[EFFECTIVE UPON PASSAGE]: Sec. 8. The commissioner of labor
3	may do the following:
4	(1) Make or cause to be made all necessary inspections to see that

- (1) Make or cause to be made all necessary inspections to see that all of the laws and rules enacted or adopted for that purpose and that the department is required to enforce are promptly and effectively administered and executed.
- (2) Collect, collate, and publish statistical and other information relating to working conditions in this state and to the enforcement of this chapter **and IC 22-9-7** and such rules as may be necessary to the advancement of the purposes of this chapter, but no publicity of any information involving the name or identity of any employer, employee, or other person, firm, limited liability company, or corporation shall be given. It shall be unlawful for the commissioner or any person to divulge, or to make known in

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1	any way not provided by law, to any person the operation, style of
2	work, or apparatus of any employer, or the amount or sources of
3	income, profits, losses, expenditures, or any part thereof obtained
4	by him in the discharge of his official duties.
5	(3) Except as otherwise provided by law, employ, promote, and
6	remove clerks, inspectors, and other employees as needed or as
7	the service of the department of labor may require, and with the
8	approval of the governor, within the appropriation therefor, fix
9	their compensation and to assign to them their duties. Employees
10	of the department are covered by IC 4-15-2.
11	(4) Promote the voluntary arbitration, mediation, and conciliation
12	of disputes between employers and employees, for the purpose of
13	avoiding strikes, lockouts, boycotts, blacklists, discrimination,
14	and legal proceedings in matters of employment. The
15	commissioner may appoint temporary boards of arbitration,
16	provide for the payment of the necessary expenses of the boards,
17	order reasonable compensation paid to each member engaged in
18	arbitration, prescribe and adopt rules of procedure for arbitration
19	boards, conduct investigations and hearings, publish reports and
20	advertisements, and do all other things convenient and necessary
21	to accomplish the purpose of this chapter. The commissioner may
22	designate an employee of the department to act as chief mediator
23	and may detail other employees, from time to time, to act as his
24	assistants for the purpose of executing this chapter. Any employee
25	of the department who may act on a temporary board shall serve
26	without extra compensation.
27	SECTION 2. IC 22-9-7 IS ADDED TO THE INDIANA CODE AS
28	A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
29	PASSAGE]:
30	Chapter 7. Wage Discrimination
31	Sec. 1. The general assembly finds that despite federal and state
32	laws banning discrimination in employment and pay in public and
33	private employment, wage differentials persist between women and
34	men and between minorities and nonminorities in the same jobs
35	and in equivalent jobs.
36	Sec. 2. As used in this chapter, "department" refers to the
37	department of labor.
38	Sec. 3. As used in this chapter, "employee" means an individual
39	employed by an employer. The term does not include an employee

employed by an employer for less than three (3) months.

Sec. 4. As used in this chapter, "employer" means a person

employing six (6) or more persons within the state. The term does



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1	not include:
2	(1) a nonprofit corporation or association organized
3	exclusively for fraternal or religious purposes;
4	(2) a school, educational, or charitable religious institution
5	owned or conducted by or affiliated with a church or religious
6	institution; or
7	(3) an exclusively social club, corporation, or association that
8	is not organized for profit.
9	Sec. 5. As used in this chapter, "equivalent jobs" means jobs or
10	occupations that are equal within the meaning of the federal Equal
11	Pay Act of 1963 (29 U.S.C. 206 (d)) or jobs or occupations that are
12	dissimilar but whose requirements are equivalent, when viewed as
13	a composite of skills, effort, responsibility, and working conditions.
14	Sec. 6. As used in this chapter, "market rates" means the rates
15	that employers within a prescribed geographic area actually pay
16	or are reported to pay for specific jobs, as determined by formal or
17	informal surveys, wage studies, or other means.
18	Sec. 7. As used in this chapter, "person" means one (1) or more
19	individuals, partnerships, associations, organizations, limited
20	liability companies, corporations, labor organizations,
21	cooperatives, legal representatives, trustees in
22	bankruptcy, receivers, other organized groups of persons, and the
23	state and all political subdivisions and agencies of the state.
24	Sec. 8. As used in this chapter, "wages" and "wage rates" mean
25	compensation in any form that an employer provides to an
26	employee in return for work performed or services rendered,
27	including base pay, bonuses, commission, awards, tips, or
28	nonmonetary compensation if provided instead of or in addition to
29	monetary compensation and that has economic value to an
30	employee.
31	Sec. 9. An employer may not discriminate among employees on
32	the basis of sex, race, or national origin by:
33	(1) paying wages to employees at a rate less than the rate paid
34	to employees of the opposite sex, a different race, or dissimilar
35	national origin for work in equivalent jobs; or
36	(2) paying wages to employees in a job that is dominated by
37	employees of one (1) sex, a particular race, or national origin
38	at a rate less than the rate at which the employer pays to
39	employees in an equivalent job that is dominated by
40	employees of the opposite sex, a different race, or dissimilar
41	national origin.

Sec. 10. Notwithstanding section 9 of this chapter, an employer



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1	may pay different wage rates to employees when the payments are
2	made pursuant to:
3	(1) a seniority or merit system;
4	(2) a system that measures earnings by quantity or quality of
5	production; or
6	(3) a differential based on any other factor other than sex,
7	race, or national origin.
8	Sec. 11. An employer who is paying a wage rate differential in
9	violation of section 10 of this chapter may not reduce the wage rate
10	of an employee to comply with section 10 of this chapter.
11	Sec. 12. A labor organization, or its agents, representing
12	employees of an employer having employees subject to this chapter
13	may not cause or attempt to cause an employer to discriminate
14	against an employee in violation of section 9 of this chapter.
15	Sec. 13. The department shall adopt rules under IC 4-22-2 to
16	implement this chapter. The rules must include specifications of the
17	criteria for determining whether a job is dominated by employees
18	of one (1) sex, a particular race, or a particular national origin.
19	The criteria must include:
20	(1) whether the job has been formally classified or
21	traditionally considered to be male, female, white, or
22	minority;
23	(2) whether there is a history of discrimination against women
24	or individuals of a particular race regarding wages,
25	assignment, or access to jobs, or other terms or conditions of
26	employment; and
27	(3) the demographic composition of the workforce in
28	equivalent jobs.
29	The rules shall provide a time frame for retention of records by the
30	employer. The rules may not include a list of jobs. The rules must
31	provide for protection of the confidentiality of employees and must
32	require that reports not include the names of employees or other
33	identifying information.
34	Sec. 14. (a) Upon commencement of an individual's employment
35	and at least annually thereafter, an employer shall provide to each
36	employee a written statement informing the employee of the job
37	title, wage rate, and how the wage is calculated.
38	(b) An employer shall make and preserve records that document
39	the wages paid to employees and support the method, system,
40	calculations, and bases used to establish, adjust, and determine the
41	wage rates paid to its employees.
42	(c) An employer shall preserve the records for the periods of



1	time established under section 13 of this chapter and shall make
2	reports from the records as required by rule of the department.
3	Sec. 15. The department may use the information and data from
4	reports submitted under section $14(c)$ of this chapter for statistical
5	and research purposes, subject to the provisions of IC 22-1-1-8 (2).
6	Sec. 16. It is an unfair employment practice for an employer:
7	(1) to take adverse action or otherwise discriminate against an
8	individual because:
9	(A) the individual has opposed an act or practice made
.0	unlawful by this chapter;
.1	(B) has sought to enforce rights protected under this
.2	chapter; or
.3	(C) has testified, assisted, or participated in an
4	investigation, hearing, or other proceeding to enforce this
.5	chapter; or
6	(2) to discharge, discriminate against, coerce, intimidate,
.7	threaten, or interfere with an employee or person because:
.8	(A) the employee inquired about, disclosed, compared, or
.9	discussed the employee's wages or the wages of another
20	employee; or
21	(B) the employee exercised, enjoyed, aided, or encouraged
22	another person to exercise or enjoy any right granted or
23	protected by this chapter.
24	Sec. 17. An aggrieved individual may file a complaint with the
25	civil rights commission under IC 22-9-1-6 if the individual alleges
26	a discriminatory practice under section 9, 11, 12, or 16 of this
27	chapter. The civil rights commission shall determine whether the
28	complaint requires action to be taken under IC 22-9-1-6.
29	Sec. 18. (a) An aggrieved individual alleging a violation of
30	section 14(a) and 14(b) of this chapter may file a civil action in a
31	circuit or superior court having jurisdiction in the county where
32	the violation is alleged to have occurred.
33	(b) The department may file a civil action in a circuit or
34	superior court having jurisdiction in the county where a violation
35	of section 14(c) of this chapter is alleged to have occurred.
86	(c) In an action under this chapter where the court finds against
37	an employer, the employee or the department shall be awarded
88	reasonable attorney's fees, expert witness fees if appropriate, and
89	costs of the action.
10	(d) A civil action under this chapter must be filed not later than

 $two\left(2\right)$ years after the date of the last event constituting the alleged



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violation for which the action is brought.

- (e) The procedures and requirements for an appeal under
- 2 IC 22-9-8 apply to this chapter.
- 3 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1487, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 7, nays 6.

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